

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Judy Lindsay

Complainant

v.

Joyce Peppin, Gregg Peppin, Katie
Nadeau, and the Joyce Peppin
Volunteer Committee,

Respondents

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATIONS AND
NOTICE OF AND ORDER FOR
PROBABLE CAUSE HEARING**

TO: Judy Lindsay, Joyce Peppin, Gregg Peppin, Katie Nadeau, and the Joyce Peppin Volunteer Committee.

PLEASE TAKE NOTICE that on October 29, 2004, Complainant filed a Complaint with the Office of Administrative Hearings alleging violations of three sections of Minn. Stat. Chap. 211B, by Respondents. After reviewing the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint fails to set forth a prima facie violation of Minn. Stat. § 211B.04, but does set forth prima facie violations of Minn. Stat. §§ 211B.06 and 211B.07.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter is scheduled for a probable cause hearing to be held before the undersigned Administrative Law Judge on Wednesday, November 3, 2004 at 2:00 p.m. The hearing will be held by "call in" telephone conference. **You must call** 651-284-3547 at that time. Follow the directions and enter the number "1972" when asked for the meeting number. If that date or time are inconvenient, please call Staff Attorney Anne Becker at 612-341-7666 immediately.

The probable cause hearing will be conducted pursuant to Minn. Stat. § 211B.34. Information about the probable cause proceedings and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the probable cause hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and the opposing party.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is

frivolous, or that there is no probable cause to believe that the violations of law alleged in the Complaint has occurred; or (2) determine that there is probable cause to believe that any or the violations of law alleged in the complaint has occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minn. Stat. § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of the decision on the record by the Chief Administrative Law Judge, under Minn. Stat. § 211B.34, subd. 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612-341-7610 (voice) or 612-341-7346 (TTY).

Dated November 1, 2004

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge

MEMORANDUM

For purposes of this determination, the facts alleged in the Complaint are assumed to be true because they are not patently false or inherently incredible. Arlon Lindner is running for the Legislature in District 32A as an Independent candidate. Lindner is the incumbent, has held the position for twelve years, and previously ran and was elected as a Republican. Joyce Peppin is running for the same legislative seat and this year was endorsed by the Republican Party of Minnesota over Lindner.

Complainant is Lindner's Campaign Manager. Katie Nadeau is Campaign Manager of the Joyce Peppin Volunteer Committee. Gregg Peppin is Joyce Peppin's husband.

On October 17, 2004, Katie Nadeau wrote and sent a letter to supporters who had allowed Joyce Peppin lawn signs on their property. She started the letter identifying herself as Joyce Peppin's Campaign Manager. She ended the letter giving her email address and telephone number. The signature block stated, "Katie Nadeau, Campaign Manager, Joyce Peppin Volunteer Committee." While the letter does not contain the words "Prepared and paid for by . . .," it does prominently include the name and address of the person and committee causing the material to be prepared and disseminated substantially in the form required by Minn. Stat. § 211B.04. Therefore, the letter does not violate the statute as alleged in the Complaint.

The Nadeau letter says some people with Joyce Peppin lawn signs have been confronted and pressured by Lindner supporters about their support of Joyce Peppin. Two statements in the letter state, among other things, that it is Lindner's workers doing the harassing, which the Complaint alleges is false. Thus, the allegation sets forth a prima facie violation of the prohibition in Minn. Stat. § 211B.06, subd. 1, on false statements in campaign material.

The Peppin Volunteer Committee sent out a campaign piece with "Voter Alert! Important Message from the Republican Party of Minnesota," on one side. The other side reproduced a letter signed by the State Chairman of the Republican Party of Minnesota supporting Peppin as the Republican endorsed candidate and asking that Republicans not vote for Lindner. The letter makes certain statements regarding the Republican Party's endorsement of Peppin over Lindner and Lindner's endorsement by a different Republican organization. The Complaint alleges those statements to be false. Again, the allegations set forth prima facie violations of the prohibition in Minn. Stat. § 211B.06, subd. 1, on false statements in campaign material.

Complainant alleges in an affidavit that it was reported to her that Joyce Peppin was angry at a Lindner volunteer and threatened the volunteer's employment for supporting Lindner. Complainant also alleges that it was reported to her by another Lindner volunteer that Gregg Peppin had called that volunteer's employer in an attempt to get that volunteer fired for supporting Lindner. Those allegations set forth prima facie violations of the prohibition in Minn. Stat. § 211B.07 on the use or threat of harm, loss of employment, or the like to compel an individual to vote for or against a candidate.

S.M.M.